

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]**

**[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]**

**Findings under Rule 18(17) and Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No. : [PR-150/13/DD/168/2013/DC/435/2016]**

**In the matter of:**

**Shri Nikhil B. Patel,  
The Karnavati Co-op. Bank Ltd.,  
H.O.-105, Radha Raman Complex,  
Near Khodiyarnagar,  
N.H. No-8,  
Ahmedabad – 382 350**

**..... Complainant**

**Versus**

**CA. Manoj Kumar Pandya .....(M. No. 032741)  
M/s Manoj N. Pandya & Co.  
T/F/1/A, 3<sup>rd</sup> Floor, Malak Complex,  
Opp. Loha Bhavan,  
Nr. Old High Court,  
Navrangpura,  
Ahmedabad- 380 009**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer  
CA. Amarjit Chopra, Member (Govt. Nominee)  
CA. Rajendra Kumar P, Member  
CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 21.07.2019**

**PLACE OF FINAL HEARING : ICAI Tower, Mumbai**

**PARTIES PRESENT :**

**Complainant : Mr. D.M. Shah (Authorized Representative)  
: Mr. Bhushan Oza, Advocate (Counsel for the Complainant)**

**Respondent : CA. Manoj Kumar Pandya  
: CA Deepak Shah (Counsel for the Respondent)**

**Charges in Brief:-**

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent had been held Prima Facie guilty of professional misconduct under "Clause 7" of the Part I of the second schedule to the Chartered Accountant Act 1949 which states as under :-

*"does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"*

2. The issue in this case is that the complainant who is the Managing Director of The Karnavati Co-op. Bank Ltd., Ahmedabad alleged that the Respondent who was the concurrent auditor of the complainant bank did not physically verify cash lying in the second safe wherein the cashier of the complainant bank taking undue advantage of respondent negligence and misappropriated cash of Rs. 43 lakhs. Hence, the respondent failed to perform his duty with due care and negligence.

**Brief facts of the Proceedings:**

3. On the day of hearing, the Committee noted that Complainant was present along with his counsel; on other side, the Respondent with his Counsel appeared before the Committee. The Respondent was put on oath. In the

presence of the Complainant and with consent of Respondent, the charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wish to proceed with his defence. Thereafter, the Respondent placed his defence. After considering all papers available on record, the Committee decided to conclude the matter.

### **Findings of the Committee**

4. In view of the above sequential submissions by the respondent which is evident from the certificate (enclosed) duly verified by the officers of banks including the cashier and even by Mr. Devang Soni who took charge on 12th February, 2009. The committee found that there is a merit in the contention of respondent.
5. The committee also noted that the official of the firm who conducted the audit also gave a statement related to verification of the cash which was later on retracted before the Magistrate under Section 164 of Cr. PC and is not being objected. Rather the committee also noted that the court while pronouncing the final decision against the alleged employee acquitted them for which bank has filed an appeal wherein no decision has been received as yet. It is also noted by the Committee that as per normal procedures adopted in the cash verification the auditors is bound to verify the bundle of notes rather than each and every note in the bundle wherein in the verification at different time there was no objection on the missing bundles by the officials of Bank. It is also very important to note here that the cash in hand matched with the books of accounts. The cash in hand cannot be physically tallied with individual cash chest rather the cash in hand and the cash in both the cash chest have been found correct and no discrepancy has been noticed on this count.

**Conclusion**

6. In view of the above, the committee could not find any positive evidence of negligence on the part of the Respondent to hold him guilty of the negligence in performing his duties. Accordingly, in the considered opinion of the Committee, the Respondent is **NOT GUILTY** in terms of Clause (7) of Part I of Second Schedule to the Chartered Accountant Act, 1949.
7. Accordingly, the Committee passes an Order for closure of this case under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

**Sd/-**  
**(CA. ATUL KUMAR GUPTA)**  
**PRESIDING OFFICER**

**Sd/-**  
**(CA. AMARJIT CHOPRA)**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(CA. RAJENDRA KUMAR P)**  
**MEMBER**

**Sd/-**  
**(CA. CHANDRASEKHAR VASANT CHITALE)**  
**MEMBER**

**DATE : 16-12-2019**  
**PLACE :New Delhi**